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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,800	03/18/2004	Akihiro Karasawa	250259US3	5099
22850	7590	12/06/2005		EXAMINER
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			DUNWOODY, AARON M	
			ART UNIT	PAPER NUMBER
			3679	

DATE MAILED: 12/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/802,800	KARASAWA, AKIHIRO	
	Examiner Aaron M. Dunwoody	Art Unit 3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 14 November 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) 4 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-3,5 and 6 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

Election/Restrictions

Claim 4 is withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 11/14/2005.

Applicant's election with traverse of species Group I in the reply filed on 11/14/2005 is acknowledged. The traversal is on the ground(s) that a search and examination of the entire application would not place a serious burden on the Examiner. This is not found persuasive because the reasons set forth below.

It is noted that applicant has (1) failed to show that a coextensive search is a reason for not requiring an election requirement and (2) failed to establish that a coextensive search is present. Furthermore, applicant has failed to show that search is the overriding criteria in determining the burden imposed upon the examiner. Applicant's general allegation that "search and examination of the entire application would not place a serious burden on the Examiner" fails to comply with the requirement of 37 CFR 1.111 and is wholly insufficient.

In particular, what is the basis relied upon to arrive at the conclusion that no serious burden is imposed? Is applicant alleging that the examiner would only have to consider the patentability of the generic aspects of the invention? Is applicant asserting that the numerous species are not patentably distinct and thus are obvious in view of one another? Nevertheless, it is extremely burdensome to have to carry out an

examination, including consideration of and response to arguments, for all of the specific features of each of the multiple patentably distinct species in the same application when no patentable generic claim is indicated to be present.

The requirement is still deemed proper and is therefore made FINAL.

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Information Disclosure Statement

No Information Disclosure Statement submitted.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by US patent 3760842, Mikiya.

In regards to claim 1, Mikiya discloses a spray comprising:
a hollow first main shaft (not shown but implied, and similar to 30, also well known in the art) through which a fluid pass;
a main shaft rotation portion (13) fitted on the first main shaft so as to be rotatable around the first main shaft;

an external ring (not shown but implied, and similar to 30, also well known in the art) fitted on the main shaft rotation portion, the external ring pressing the main shaft rotation portion onto the first main shaft so that the fluid can not enter the interface between the main shaft rotation portion and the first main shaft;

a three- or four-way joint (10) connected to the main shaft rotation portion, the three--or four-way joint having joint portions, at least the joint portions other than the joint portion connected to the main shaft rotation portion being substantially spherical, the three- or four-way joint being capable of dividing the fluid having passed through the main shaft rotation portion, in two or three directions;

an angle joint (23) connected to the three- or four-way joint, the angle joint having at its one end a substantially spherical joint portion and at its other end a concave bearing portion; the bearing portion being able to be closely fitted on the joint portion and allowing the connection angle to be freely changed; and

a nozzle joint (21) connected to the three- or four-way joint or the angle joint, the nozzle joint having at its one end a nozzle and at its other end a concave bearing portion, the bearing portion being able to be closely fitted on the joint portion and allowing the connection angle to be freely changed,

the main shaft rotation portion being rotated by the force of the fluid being sprayed out of the nozzle joint.

In regards to claim 2, Mikiya discloses the main shaft rotation portion can be split into two pieces (but not required).

In regards to claim 3, Mikiya discloses the main shaft rotation portion has, at the connection portion to the joint portion, a concave bearing portion that can be closely fitted on the joint portion and allows the connection angle to be freely changed.

In regards to 5, Mikiya discloses the joint portion allows the connection angle to be changed within an angle range of 20 degrees relative to an axial center.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mikiya.

In regards to claim 6, Mikiya discloses the claimed invention except for each of the first main shaft, the main shaft rotation portion, the three- or four-way joint, the angle joint, and the nozzle joint, being made of polyethylene terephthalate (PET). It would have obvious to one having ordinary skill in the art at the time the invention was made to fabricate each of the first main shaft, the main shaft rotation portion, the three- or four-way joint, the angle joint, and the nozzle joint, of polyethylene terephthalate, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron M. Dunwoody whose telephone number is 571-272-7080. The examiner can normally be reached on 7:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on 571-272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Aaron M Dunwoody
Primary Examiner
Art Unit 3679

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